
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

OMAR WADLEY,

Petitioner,

versus

MARK MARTIN,

Respondent.

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CIVIL ACTION NO. 1:11-CV-260

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner, Omar Wadley, a federal prisoner currently confined at FCI Beaumont Low, proceeding *pro se*, filed this petition for writ of habeas corpus.

The Court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court.¹ The Magistrate Judge recommends the petition for writ of habeas corpus be dismissed.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Petitioner filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the Court finds petitioner's objections are without merit. As the Magistrate Judge correctly concluded, the All Writs Act does not confer an independent basis for subject matter jurisdiction. *Renteria-Gonzales v. INS*, 322 F.3d 804, 811 (5th Cir. 2002). Furthermore, petitioner has not satisfied either prong of the *Reyes-Requena* test. *Reyes-Requena*

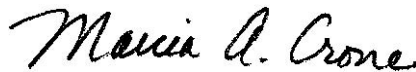
¹ On August 9, 2011, this case was reassigned to the Honorable Zack Hawthorn.

v. United States, 243 F.3d 893 (5th Cir. 2001). Petitioner has failed to demonstrate he was convicted of a nonexistent offense or that his grounds for review were foreclosed by circuit law at the time when the claim should have been raised in petitioner's trial, appeal, or first Section 2255 motion. *Id.* at 904.

ORDER

Accordingly, the objections of the petitioner are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED at Beaumont, Texas, this 18th day of August, 2011.

A handwritten signature in cursive script that reads "Marcia A. Crone". The signature is written in black ink and is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE